

1 UNITED STATES DISTRICT COURT

1

2 SOUTHERN DISTRICT OF NEW YORK

3 - - - - - x
4 KIMBERLY OSORIO and MICHELE JOYCE,

5 Plaintiffs

6 - against -

7 SOURCE ENTERPRISES, INC., SOURCE ENTERTAINMENT,
8 INC., DAVID MAYS in his official and individual
9 capacities, and RAYMOND SCOTT, also known as
"BENZINO", in his official and individual
capacities,

10 Defendants.

11 - - - - - x
12 500 Pearl Street
13 New York, New York

14 May 24, 2006
9:40 a.m.

15
16 DEPOSITION of MICHELLE JOYCE, a

17 Plaintiff, in the above-entitled action, held
18 at the above time and place, pursuant to order,
19 taken before Holly Johnson, a shorthand
20 reporter and Notary Public within and for the
21 State of New York.

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25

1 Joyce 55
2 record meant that you felt discriminated
3 against, harassed and retaliated, so my
4 question to you is on the basis of your own
5 definition of how this violates your rights,
6 how did it?

7 MS. LE ROUX: Objection.

8 You can answer.

9 A Well, I felt as though I was a
10 victim of gender discrimination because I was
11 being held to a different standard and so were
12 the other females in my department than the men
13 in my department were, but overall in a bigger
14 picture I felt the men at The Source were
15 treated differently than the women at The
16 Source and the women were sort of expected to
17 come to work on time, do their jobs, to be
18 there, to be present. The men came to work
19 late frequently or not at all. They would dip
20 out during the day for breaks. They would come
21 back wreaking of weed and marijuana. They
22 could go take a nap at their cubicle or in
23 their office.

24 Q Did you ever use marijuana?

25 A No.

1 Joyce

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2 office?

3 A Dale Johnson, Leroy Peeples, Eric
4 Brown, Boo, B-O-O, Gotti, Tory, and I don't
5 remember the names of the others.

6 Q As you sit here today, can you
7 recall any others, any other men that you
8 believe were treated in the way that you
9 described on the record?

10 A That I can't remember their names.
11 Like I don't know their names. I just knew
12 them by face. I didn't work directly with
13 them.

14 Q These individuals that you've
15 mentioned by name, Dale Johnson, Peeples, Eric
16 Brown, Boo, Gotti, Tory, were they friends with
17 either Dave Mays or Ray Scott?

18 A I know that most of them were;
19 however, Boo, Gotti and Tory, as I know, were
20 not part of the Boston crew.

21 Q Are they part of another group of
22 friends?

23 A Not that I know of.

24 Q Were they employed by The Source
25 prior to your employment?

1 Joyce

79

2 and he told me that he would make it up to me
3 in giving me the 5,000 dollar bonus to bring me
4 to that \$100,000.

5 Q When did you have this conversation
6 with him?

7 A When I was first hired.

8 Q So was your salary in 2004 100,000?

9 A No.

10 Q Was it always 95,000 until you
11 separated from the company?

12 A Yes.

13 Q The second person that you
14 identified is Leroy Peebles. How is he the
15 basis of your gender discrimination case?

16 MS. LE ROUX: Objection.

17 You can answer.

18 A He also had a car allowance and a
19 living allowance. I don't know what his salary
20 was. He also often came to work around 12 or 1
21 in the afternoon with smoke or smell of weed
22 during the day. That's all I can recall right
23 now.

24 Q Were the women ever told they
25 couldn't smoke weed?

Joyce

80

A Not that I know of.

3 Q Why do you believe that they would
4 have been treated differently than the men if
5 they smoked marijuana?

A Just the general tone and the
feeling of the office atmosphere.

Q So that was your assumption?

9 A Yes.

10 Q Do you know what Mr. Peeples's work
11 hours were?

12 A I do not.

13 O Do you know how late he worked?

14 A He would often be leaving with me.

15 Q Do you know how late Dale Johnson
16 worked?

17 A I don't.

18 Q Have I exhausted your recollection
19 as to why Leroy Peeples is part of your gender
20 discrimination claim?

21 A Yes.

22 Q The next person that you identified
23 is Eric Brown. What is the basis for your
24 belief that Mr. Brown is part of your gender
25 discrimination claim?

1 Joyce

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2 MS. LE ROUX: Objection.

3 You can answer.

4 A He would often come to work late
5 and dip out for long periods during the day and
6 just be sitting in the mailroom watching a game
7 on TV during the day or other television
8 program completely unrelated to music, and at
9 one point I even came into the mailroom, summer
10 of 2004, I can't say exactly when, late
11 afternoon and he was in the mailroom with Dale,
12 Leroy Peebles, also known as Bum, and Raymond
13 Scott, and Raymond Scott was smoking a blunt.

14 Q What is that?

15 A It's a big marijuana thing.

16 Q It's called a blunt?

17 A Uh-huh, and they were watching a
18 porno movie.

19 Q When was this?

20 A Summer 2004, probably late summer.
21 I really don't remember.

22 Q Did you stay and watch them?

23 A No.

24 Q Did anyone else observe this?

25 A I don't know. I got my mail and

1 Joyce

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2 tell you exactly when because I don't remember.

3 Q Did she contact you or you
4 contacted her?

5 A We were talking on the phone. I
6 can't remember who called who.

7 Q Were you friendly with Ms. Osorio
8 at The Source?

9 A At The Source?

10 Q Yes.

11 A Yes.

12 Q Did you complain to her about the
13 situation you felt at The Source?

14 A Yes.

15 Q When did you first complain to Ms.
16 Osorio about discrimination?

17 A Late 2004.

18 Q Was that the first time she became
19 aware of your gender discrimination claim?

20 A Yes.

21 Q Is that a yes?

22 A Yes.

23 Q Did you also complain to her about
24 what you believed to be sexual harassment
25 against you at The Source?

1 Joyce

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2 A I don't recall.

3 Q What was the sum and substance of
4 your conversation with her in 2004?5 A I can't remember the specific
6 conversation, but I told her about what my
7 experiences have been at The Source, about how
8 I felt that there was gender discrimination
9 against me and the other women in the office,
10 that the men were held to different standards
11 than the women were, that I had issues with the
12 fact that, you know, we were not only required
13 to be at work earlier than them, but we were
14 also required to do our job and perform our job
15 duties where they weren't. They could get away
16 with not doing them, not completing their
17 tasks, not doing their function, not getting
18 their projects done and still get paid at the
19 end of the biweekly pay period, that they could
20 dip out during the day and not be held
21 accountable for where they had been.22 Q Did any of the women that worked at
23 The Source do similar -- have similar conduct
24 to the men that you've described?

25 MS. LE ROUX: Which conduct

1 Joyce

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2 Q Did she ever complain to you about
3 what she felt to be sexual harassment at The
4 Source?

5 A She told me that on one occasion
6 Ray had invited her to go away to Atlantic City
7 with him and kept repeatedly calling her to
8 take the trip. Then he also tried having
9 discussions with her about her sex life and who
10 she was sleeping with and wanting to know what
11 artists she slept with.

12 Q When did she have these
13 conversations with you?

14 A Late 2004.

15 Q As far as you know the invitation
16 she had from Ray Scott to take the Atlantic
17 City trip was at or around the time that she
18 complained to you?

19 A I don't know.

20 Q Do you know when any of these
21 incidents took place where he asked her about
22 her sex life and who had she slept with amongst
23 the artists?

24 A No.

25 Q Did you ever complain on Kimberly

1 Joyce

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2 Osorio's behalf?

3 A No.

4 Q Tiffany Nelson is another
5 individual that you've identified who you
6 claimed has been discriminated against on the
7 basis of gender at The Source. What are the
8 factual bases for your belief that she was
9 discriminated against because she was a woman?

10 MS. LE ROUX: Objection.

11 You can answer.

12 A Well, for example, Stets was given
13 a project. I don't remember what project at
14 the time, and he basically gave it to Tiffany
15 to do because she was an intern. Additionally
16 she was held to a different standard of coming
17 into work on time and being accountable and
18 present and also held to a different standard
19 of actually doing her job and completing her
20 tasks and her job functions, whereas two of the
21 men in the department where she worked directly
22 were not.

23 Q Who did she work for?

24 A She started out as my marketing
25 intern.

1

Joyce

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2 are you referring to?

3 Q You've just given me an entire
4 list. Were there women at The Source that
5 conducted themselves similarly to what you
6 described just on the record just now?

7 A Not that I am aware of.

8 Q Why did you believe that women were
9 held to a different standard?

10 A It was obvious. It was apparent
11 that, for example, in my department that
12 Ousmane Sam and Stets Austin could get away
13 with not completing a task and not be held
14 accountable, not even get written up by HR, not
15 even have HR come and speak to them about what
16 they were doing or not doing, that I could tell
17 my boss that they weren't doing the project
18 that I was told that I needed to get it done
19 and when Sonia came around to hand out the
20 paychecks, they got their paychecks every other
21 week just like everyone else.

22 Q Did Kimberly Osorio complain to
23 Julie Als about the sexual harassment claim, if
24 you know?

25 A I do not know.

1 Joyce

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2 bathing suits would be pornographic?

3 A No, that would mean women in
4 G-strings bent over with their butt cheeks
5 pulled open.

6 Q Weren't there ads like that at The
7 Source?

8 A Ads like that?

9 Q Yes.

10 A Not like that.

11 Q Weren't there ads with women in
12 G-strings?

13 A When you say an ad, are you
14 referring to an advertisement or editorial?

15 Q Weren't there print ads at The
16 Source with women in G-strings?

17 A Not that I recall.

18 Q Weren't there pictures of women in
19 G-strings for the editorial parts of the
20 magazine?

21 A There were pictures of women in
22 bathing suits.

23 Q What is the difference between a
24 bathing suit and G-string?

25 A I'm not simply referring to a

1 Joyce

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2 G-string. I am referring to a woman bent over
3 spreading her butt in a G-string so that you
4 can clearly see sexual parts of her body, her
5 organs.

6 Q Where did you see this?

7 A In the office.

8 Q Where in the office?

9 A On a cork board in the area where
10 Stets and Ous and Arash and Terry sat.

11 Q Do you know whose picture this was?

12 A I do not know.

13 Q Did you complain about it?

14 A Yes, I did.

15 Q Who did you complain to?

16 A Julie Als.

17 Q When did you complain to her?

18 A I complained to her in 2004.

19 Q Late 2004?

20 A No, probably mid 2004.

21 Q What was done as a result of your
22 complaint?

23 A Nothing.

24 Q Was it taken down?

25 A No.

1 Joyce 153

2 you've testified to, was that an only one time
3 occurrence where you saw the G-string picture?

A There were many photos that I saw.

Q What other photos did you see?

6 A I saw photos of women who were half
7 naked displayed in that same area. I saw
8 photos of women who were half naked displayed
9 on Jason's screen as his screen saver.

10 Q Who's Jason?

11 A Jason worked in the art department.

Q What else?

13 A I saw photos of women in Stets's
14 cubicle and Terry's cubicle.

Q In Terry's, you said?

16 A Um-hum.

17 Q Is that a yes?

18 A Yes.

19 Q We'll get to these after lunch

20 because otherwise we're going to be here all
21 afternoon.

22 Were you injured as a result of the
23 discrimination you believe existed towards
24 other women?

25 MR. LE ROUX: Objection.

1 Joyce

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2 Q Late summer 2004?

3 A Um-hum.

4 Q Is that a yes?

5 A Yes.

6 Q Did you talk to anybody else other
7 than Chris White about this double standard?

8 A Yes, I did.

9 Q Who else did you talk to?

10 MS. LE ROUX: Objection;

11 asked and answered. You can
12 answer again.

13 A I talked to all of the department
14 heads who included Jeremy Miller, Julie Als,
15 Ron left come and Chris White.

16 Q When was the last time you
17 discussed the double standard issue with Julie
18 Als?

19 A Probably mid 2004.

20 Q When was the last time you
21 discussed the double standard issue with Jeremy
22 Miller?

23 A Probably summer of 2004.

24 Q When was the last time you
25 discussed the double standard issue with Ron

1 Joyce 163

2 | Lefcon?

Joyce

163

A Probably mid 2004.

Q Was that June 2004?

5 A I don't know if it's June or July
6 or August. Probably somewhere within that time
7 frame.

8 Q Have I exhausted your memory as to
9 the individuals you spoke to concerning the
10 double standard issue?

11 A Correct.

12 Q Have I exhausted your memory as to
13 the last time that you had the discussion
14 regarding a double standard issue with those
15 individuals?

16 A That's all I can recollect at this
17 time.

18 Q So I've exhausted your memory?

19 A At this time, yes.

20 Q With respect to Julie Als, how many
21 times did you speak to her regarding the double
22 standard issue?

23 MS. LE ROUX: Objection;

asked and answered. You can answer again.

1 Joyce 164

2 A On various occasions.

3 Q When we've used the word prior, I
4 characterized it as gender discrimination. Did
5 you mean it to be double standard?

6 MS. LE ROUX: Objection as
7 to form. You can answer.

8 A You mean -- I'm sorry, can you
9 explain your question?

10 Q Well, we covered quite a bit on
11 gender discrimination. Is your gender
12 discrimination claim the double standard issue
13 that we're now discussing?

14 A It's based in part on that, yes.

Q What is the other part?

16 A The fact that several men were
17 compensated in different ways than I was.

Q Isn't that a double standard?

19 A Yes, I guess you can classify it as
20 a double standard.

21 Q Is it your testimony that up until
22 this point everything that you've discussed
23 concerning gender discrimination is really what
24 you believe to be the double standard issue
25 between men and women who work at The Source?

Joyce

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2 squatted down, revealing buttocks, squatted
3 down with their legs open shot from the front,
4 wet t-shirt pictures of women with their
5 breasts exposed with a picture of their
6 nipples. Those are the basic ones.

7 Q . When did you first discover these
8 pictures? We can start with the images of
9 topless women.

10 A In 2004.

11 Q Where did you discover them?

12 A In the back area where Stets and
13 Ous and Arash and Terry sat and also in Bum's
14 office and also back in the editorial area.

15 Q Did you ever complain to anyone
16 about these pictures?

17 A Yes, I did.

18 Q Who did you complain to?

19 A Julie Als.

20 Q When did you complain?

21 A In 2004.

Q Do you recall what month?

23 A I don't recall.

Q Do you recall what the season was?

25 A I believe it was summer.

Joyce

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Q What was the sum and substance of your complaint to Ms. Als?

A That there were inappropriate images displayed.

Q What was her response?

A That she would look into it.

Q Were they taken down?

A No, they weren't.

Q How long did they remain there?

11 A They remained there until we moved
12 offices.

Q When was that?

A I believe it was November of 2004.

15 Q Did you ever make any written
16 complaints?

A No, I did not.

18 Q Did you complain more than once to
19 Julie about the pictures of the topless women?

20 A No, I did not.

21 Q So you complained only one time in
22 the summer of 2004; is that correct?

23 A Yes.

24 Q You had said that there were images
25 of women squatted down with their legs open

Joyce

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2 | shot from the front; is that correct?

3 A Yes.

Q Where did you see those images?

5 A In the same area back where Arash
6 and Ous and Stets and Terry sat.

Q . Did you complain to anyone?

8 A I complained to Julie Als.

Q When did you complain to her?

A In the summer of 2004.

11 Q Did you complain to her more than
12 once?

13 A No, I did not.

Q What was her response?

15 A That she would look into it.

16 Q In either of these occasions when
17 you complained to Julie in the summer of 2004,
18 was anyone else present?

19 A No, I do not believe so.

20 MS. LE ROUX: Just so the
21 record is clear, it's one time
22 that you complained to Julie?

23 | THE WITNESS: Correct.

24 MS. LE ROUX: You said
25 either occasion.

1 Joyce 176

2 A It's just one time.

3 Q One time that you complained about

4 —

A About all the pictures.

6 Q I misunderstood.

7 MS. COLWIN: I thank you for
8 that clarification.

9 Q So the one time that you complained
10 in the summer of 2004 you talked to her about
11 the topless women, correct?

12 A Right.

13 Q The images of women squatted down,
14 right?

15 A Correct.

16 Q And then the images of women with
17 their breasts exposed?

18 A Correct.

Q How many images were there?

20 A I don't know exactly how many
21 images. Probably less than fifteen. I don't
22 know.

23 Q Less than fifteen pictures?

24 A Yeah.

Q Were they up because of The Source